IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1072 OF 2004
IN
SECOND APPEAL NO.913 OF 2004

Dwarkabai Baburao Jagtap and Ors. ..Appellants
Versus
Gajarabai Anandrao Jagtap & Ors. ..Respondents

Mr.G.S.Godbole for appellants
Mr.P.B.Shah for respondents

CORAM : P.V.KAKADE, J.
DATE : 26TH AUGUST, 2005

P.C.:

. This is an application filed by the appellant against the respondent seeking injunction pending the appeal in respect of the suit property and also not to create any third party interest pending the appeal. After hearing both the parties and perusal of the entire record, it appears that both the courts below have recorded concurrent findings that the appellant has no right, title and interest in the suit property and as such the suit for ownership and consequential relief of injunction came to be dismissed. it is to be noted that through out proceedings before the lower courts there was no temporary injunction operative in this dispute.

2. The learned counsel for the appellant fairly

consented that the prayer clause (a) seeking injunction pending the appeal was not pressed, however, it was further submitted that status-quo with regard to the suit property may be granted pending the appeal, which submission is stoutly contested on behalf of the respondent. In this regard it must be noted that when both the courts below have concurred with the findings to the effect that the plaintiff has no right, title and interest to the suit property, it would not be just and proper at this stage to restrain the respondents by any restrictive order even in the nature of maintenance of status-quo. On the other hand it is to be noted that in case the appellants succeed in this appeal they have independent remedy with regard to the suit property and/or compliance thereof. Under the circumstances I am inclined to hold that the application is devoid of any merits and cannot be granted. The present application stands dismissed with no order as to costs.